

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

PATRICK WALSH,)	
)	
Plaintiff,)	
)	Case No.: 08 cv 1717
v.)	
)	Judge Hart
CREDIT PROTECTION ASSOCIATION,)	
LP,)	Magistrate Judge Keys
)	
Defendant)	

ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFF'S COMPLAINT

Defendant, Credit Protection Association, LP, by its attorneys David M. Schultz and Justin M. Penn, and for its Answer and Affirmative Defenses to Plaintiff's Complaint, states as follows:

INTRODUCTION

1. Plaintiff brings this action to secure redress against unlawful credit and collection practices engaged in by defendant Credit Protection Association, LP. Plaintiff alleges violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA").

ANSWER: Defendant admits that plaintiff's Complaint purports to state a claim for violations of the FDCPA. In further answering the allegations contained in this paragraph, defendant denies that it violated any laws with respect to its conduct towards the plaintiff, denies that the plaintiff has stated a cause of action, and denies that plaintiff has been damaged or is entitled to any relief.

JURISDICTION AND VENUE

2. This Court has jurisdiction under 28 U.S.C. §§1331, 1337 and 15 U.S.C. §1692k (Fair Debt Collection Practices Act). Venue in this District is proper because Credit Protection Association, LP sent its collection letter into the District.

ANSWER: Defendant admits that jurisdiction and venue are proper.

PARTIES

3. Plaintiff Patrick Walsh is an individual who resides in the Northern District of Illinois.

ANSWER: Upon information and belief, the last known address defendant has for plaintiff is in the Northern District of Illinois.

4. Defendant Credit Protection Association, LP is a limited partnership organized under the laws of Texas with offices at 4001 Dallas N. Parkway, Suite 1050, Dallas, TX 75240.

ANSWER: Defendant admits the allegations of this paragraph.

5. Credit Protection Association, LP uses the mails and interstate wires to collect consumer debts originally owed or allegedly owed to others.

ANSWER: Defendant denies that the information contained in this paragraph accurately characterizes the nature of plaintiff's business. In further answering the allegations contained in this paragraph, defendant admits that it used the mail in its collection efforts with respect to the plaintiff.

6. Credit Protection Association, LP is a "debt collector" as defined in the FDCPA.

ANSWER: Defendant admits that it is a “debt collector” as that term is defined by the FDCPA for many purposes and in many instances. In further answering the allegations contained in this paragraph, defendant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in this paragraph because it does not know the nature of the plaintiff’s underlying debt.

FACTS

7. In November 2007, defendant reported to one or more credit bureaus that plaintiff owed \$150 to defendant and that such debt was “seriously past due.”

ANSWER: Defendant denies the allegation contained in this paragraph. Defendant admits that it furnished information about the plaintiff to the credit bureaus in late 2007.

8. The alleged debt was for residential cable service.

ANSWER: Defendant denies the information contained in this allegation.

9. In fact, plaintiff was not the Patrick Walsh that owed the money, and Credit Protection Association, LP had no reasonable basis for claiming that of all the persons named Patrick Walsh, he was the one that owed the money.

ANSWER: Defendant denies the allegations contained in this paragraph.

10. As a result, plaintiff’s credit was injured.

ANSWER: Defendant denies the allegations contained in this paragraph.

11. Reporting a debt to a credit bureau is “a powerful tool designed, in part, to wrench compliance with payment terms...” *Rivera v. Bank One*, 145 F.R.D. 614, 623 (D. P.R. 1993).

ANSWER: Defendant denies the allegations contained in this paragraph.

VIOLATION ALLEGED

12. Defendant violated 15 U.S.C. §1692e, §1692e(8) and §1692e(10) by reporting false information about plaintiff to one or more credit bureaus.

ANSWER: Defendant denies the allegations contained in this paragraph.

13. Defendant intended that the communication to the credit bureau reach plaintiff through the credit bureau.

ANSWER: Defendant denies the allegations contained in this paragraph.

14. Defendant violated 15 U.S.C. §1692g by initiating indirect communication about the debt with plaintiff without first complying with 15 U.S.C. §1692g.

ANSWER: Defendant denies the allegations contained in this paragraph.

15. Had defendant so complied, plaintiff would have immediately informed defendant that he was not the person that owed it money.

ANSWER: Defendant denies the allegations contained in this paragraph.

AFFIRMATIVE DEFENSES

First Affirmative Defense

For its First Affirmative Defense, defendant states that any violation of the FDCPA, which defendant denies occurred, was not intentional and would have resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid such error.

Second Affirmative Defense

For its Second Affirmative Defense, defendant asserts that the plaintiff's purported causes of action may not be allowed to proceed within the United States District Court system as defendant may possess the contractual right to move this action to arbitration based on contracts entered into by plaintiff.

Respectfully submitted,

By: s/Justin M. Penn
One of the Attorneys for Defendant

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CERTIFICATE OF SERVICE

The undersigned attorney certifies that on May 13, 2008, **Defendant's Answer to Plaintiff's Complaint**, was electronically file using the CM/ECF system which will send notification of such filing to all attorneys of record.

s/Justin M. Penn

Justin M. Penn